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ORIGINAL

United States Senate

WASHINGTON, DC 20510-4104

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FILED BY THE SECRETARY
FEDERAL MARITIME COMM

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Bryant L. VanBrakle
Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, D.C. 20573

Re: Petition P3-03

Dear Commissioners:

I am writing in support of United Parcel Service (UPS) application for an exemption **from** the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) **from** entering into confidential contracts with their customers. Due to the operational characteristics of **UPS** and recent developments within the ocean shipping marketplace, I support UPS petition pending before the Federal Maritime Commission (**FMC**).

In 1998, during consideration of the Ocean Shipping Reform Act (OSRA) revisions, Congress determined that NVOCCs should be regulated differently **than** vessel operators. **In the late 1990's**, most NVOCCs were small enterprises that neither owned **ocean** vessels nor **the** cargo being shipped. In order **to** protect shippers and to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

However, since the **passage** of the **OSRA**, the shipping industry has changed dramatically. Unprecedented consolidation among ocean carriers has reduced the number of U.S. flagged carriers. **In** an effort to **offer customers** a full range of services, these very same carriers have created vertically integrated logistics companies that now compete with NVOCCs.

UPS **operates** an integrated transportation network, **including** air, rail, ground transportation, and NVOCC transportation, and is a **carrier** in the surface and air freight industries. The UPS petition and the recent evolution of the ocean shipping **marketplace** is precisely the reason Congress granted such broad exemption authority to the FMC. While anticipating dramatic changes in the ocean shipping industry with the passage of **OSRA**, Congress did not contemplate how fast the market could adapt to these changes. By granting this petition, the **FMC** will acknowledge these changes, level the playing field between NVOCCs and vessel operators, and ultimately **benefit** ocean shipping consumers around the world.

Thank you for **your** careful consideration of this important matter.

Sincerely,


Tim Johnson
United States Senator



U.S. Senator • South Dakota
Tim Johnson



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Fax Cover Sheet

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to: Secretary Bryant L. VanBrakle

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DATE: 10/10

NUMBER OF PAGES TO FOLLOW: 1

MESSAGE: